

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SECOND APPEAL No. 25 of 1992****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

GUJ. ELECTRICITY BOARD & 1 - Appellant(s)**Versus****VIPUL ICE PLANT PRO. MADHUBHAI J PATEL - Defendant(s)**

=====

Appearance :

MR PK PANCHOLI for Appellant(s) : 1 - 2.

MS SEJAL K MANDAVIA for Respondent(s) : 1,

=====

CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 15/03/2007****ORAL JUDGMENT**

1. Shri P.K.Pancholi, learned counsel for the
appellants; Ms. Sejal K. Mandavia, learned
counsel for the respondent.

2. The appeal was admitted for hearing the parties

on the following substantial question of law.

“Whether in the facts and circumstances of the case, the Courts below have committed an error of law in decreeing the suit filed by the plaintiff inspite of the documentary evidence to the contrary on record?”

3. From the records, it appears that after receiving supplementary bill, which was a consequence of an inspection in the premises of the plaintiff, the plaintiff filed the suit for declaration that the supplementary bill was illegal and the plaintiff was not answerable to make payment. The appellants-defendants appeared before the Court and submitted that on inspection they found that the meter was running slow, meter was tampered with and under the authority of law, they were entitled to issue supplementary bill. As the parties joined the issue, learned trial court recorded evidence and after giving due opportunity of hearing to the parties dismissed the suit. As the appeal proved futile, the appellants are before this Court.

4. Learned counsel for the appellants, after

taking me through the records submitted that the findings recorded by the learned courts below are wrong and cannot be allowed to stand, according to him, statements of the witnesses of the appellants would clearly show that the meter was running slow and the same was tampered with. Learned counsel for the respondent submits that the findings recorded by the two courts are findings of fact and even if another view is possible, High Court would not take another view simply because the High Court feels that another view is possible. The two courts, after going through the records have found that the defendants have failed in proving that the meter was running slow or same was tampered with. If the very basis for issuing a supplementary bill could not be proved by the defendants, then, consequences would be a declaration in favour of the plaintiff that supplementary bill was illegal and bad.

5. In the opinion of this Court, the two courts below were not unjustified in decreeing the suit. The appeal deserves to and is accordingly

dismissed. No costs. Interim relief, if any, is vacated.

6. Let a decree be framed accordingly.

[R.S. GARG, J.]

pirzada/-